

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KIM BOLIBA,

Plaintiff(s),

vs.

CAMPING WORLD, INC., et al.,

Defendant(s).

Case No. 2:14-cv-01840-JAD-NJK

ORDER DENYING MOTIONS

(Docket Nos. 36, 37)

Pending before the Court is Defendant Camping World, Inc.’s (“Defendant”) motion to compel, as well as a corresponding motion for sanctions. Docket Nos. 36, 37. For the reasons discussed more fully below, the motions are hereby **DENIED** without prejudice.

The Court’s initial inquiry regarding a motion to compel is whether the movant made adequate meet and confer efforts. Federal Rule of Civil Procedure 37(a)(1) requires that a party bringing a motion to compel discovery “must include a certification that the movant has in good faith conferred or attempted to confer” with the nonresponsive party. Similarly, Local Rule 26-7(b) provides that “[d]iscovery motions will not be considered unless a statement of the movant is attached thereto certifying that, after personal consultation and sincere effort to do so, the parties have not been able to resolve the matter without Court action.”

Judges in this District have previously held that “personal consultation” means the movant must “personally engage in two-way communication with the nonresponding party to meaningfully discuss each contested discovery dispute in a genuine effort to avoid judicial intervention.” *ShuffleMaster, Inc. v. Progressive Games, Inc.*, 170 F.R.D. 166, 171 (D. Nev. 1996). The consultation obligation

1 “promote[s] a frank exchange between counsel to resolve issues by agreement or to at least narrow and
2 focus matters in controversy before judicial resolution is sought.” *Nevada Power v. Monsanto*, 151
3 F.R.D. 118, 120 (D.Nev.1993). To meet this obligation, parties must “treat the informal negotiation
4 process as a substitute for, and not simply a formal prerequisite to, judicial review of discovery
5 disputes.” *Id.* This is done when the parties “present to each other the merits of their respective
6 positions with the same candor, specificity, and support during the informal negotiations as during the
7 briefing of discovery motions.” *Id.* To ensure that parties comply with these requirements, movants
8 must file certifications that “accurately and *specifically* convey to the court who, where, how, and when
9 the respective parties attempted to personally resolve the discovery dispute.” *ShuffleMaster*, 170 F.R.D.
10 at 170 (emphasis added).

11 The pending motion includes a certification that Defendant’s counsel sent emails to Plaintiff’s
12 counsel regarding the outstanding discovery dispute. Docket No. 36 at 3. The case law in this District
13 is abundantly clear that such written correspondence, standing alone, does not satisfy the personal
14 consultation requirements outlined above. *See, e.g., F.D.I.C. v. 26 Flamingo, LLC*, 2013 WL 2558219,
15 *2 (D. Nev. June 10, 2013) (citing *ShuffleMaster*, 170 F.R.D. at 172). Accordingly, the motion to
16 compel is hereby **DENIED** without prejudice. Because the motion to compel is being denied, the
17 corresponding motion for sanctions is similarly **DENIED** without prejudice.

18 IT IS SO ORDERED.

19 DATED: June 2, 2015

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23 NANCY J. KOPRE
24 United States Magistrate Judge
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